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Situation of human rights in the Palestinian territories occupied since 1967

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Makarim Wibisono, submitted in accordance with Human Rights Council resolution 5/1.

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Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967

Summary

The Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Makarim Wibisono, submits his first report to the General Assembly. This short technical report is based on consultations held with the relevant States and other stakeholders in Geneva in June 2014 and outlines next steps towards the fulfilment of the mandates contained in Commission on Human Rights resolution 1993/2 and Human Rights Council resolution 5/1.

I. Introduction

1. The Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Makarim Wibisono, was appointed on 8 May 2014, in accordance with Commission on Human Rights resolution 1993/2 and Human Rights Council resolution 5/1. He assumed his functions on 2 June 2014. He is the sixth Special Rapporteur to assume this mandate.

2. This short technical report is based on consultations held with the relevant States and other stakeholders in Geneva in June 2014. The Special Rapporteur intends to conduct a mission to Israel and the Occupied Palestinian Territory at the earliest possible opportunity with a view to preparing his first substantive report, to be submitted to the Human Rights Council at its twenty-eighth session, in March 2015.

II. Mandate

3. The mandate of the Special Rapporteur is outlined in Commission on Human Rights resolution 1993/2 and was renewed by Human Rights Council resolution 5/1.

4. Specifically, the Special Rapporteur is mandated to carry out the following activities:

(a) To investigate Israel's violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian territories occupied by Israel since 1967;

(b) To receive communications, to hear witnesses and to use such modalities of procedure as he may deem necessary for his mandate;

(c) To report, with his conclusions and recommendations, to the Commission on Human Rights at its future sessions, until the end of the Israeli occupation of those territories.

5. The mandate of the Human Rights Council[1] is therefore clearly to investigate and report on violations of international humanitarian law and international human rights law allegedly committed by Israel, the occupying Power, in the context of its prolonged occupation of the Palestinian territories since 1967.

III. Cooperation

6. Israel has in the past extended full cooperation with the mandate holder. In 1993, the Special Rapporteur received an invitation from the then Minister for Foreign Affairs, Shimon Peres, to visit Israel and the Occupied Palestinian Territory in 1994, as a result of which he carried out two visits during his term. On both occasions, he held meetings with Israeli and Palestinian officials, representatives of non-governmental organizations and of United Nations entities in the Occupied

[1] Pursuant to General Assembly resolution 60/251, the Human Rights Council has assumed the role and responsibilities of the Commission on Human Rights relating to the work of the Office of the United Nations High Commissioner for Human Rights.

Palestinian Territory, as well as with victims and witnesses of alleged violations of human rights. He was granted complete freedom of movement during his missions, including access to an Israeli detention facility for the purpose of conducting unsupervised interviews with Palestinian detainees (see E/CN.4/1994/14 and E/CN.4/1995/19).

7. Cooperation between Israel and subsequent mandate holders then ceased owing to the country's reservations concerning the mandate, although it continued to permit the Special Rapporteurs (with the exception of the fifth Special Rapporteur) to gain access to Israel and the Occupied Palestinian Territory.[2] This lack of cooperation has been regrettable, given that the full cooperation and engagement of the Government of Israel would positively contribute to the effective, even-handed and impartial implementation of the mandate. The Palestinian authorities have consistently extended their full cooperation to the current mandate holder.

8. As a former journalist and diplomat, the Special Rapporteur recognizes that any narrative is composed of two elements: fact and interpretation. Information contained in second-hand or third-hand reports will necessarily be subject to interpretation and be influenced by the standpoint of the individual or organization, and it can never replace the testimonies and the information gathered from face-to-face meetings with individuals, civil society representatives and government representatives in the Occupied Palestinian Territory and Israel.

9. The credibility of the Special Rapporteur's reports to the Human Rights Council and the General Assembly would also be enhanced by the ability of the mandate holder to duly and objectively reflect the official viewpoints and perspectives on the situation of human rights in the Palestinian territories occupied since 1967. The Special Rapporteur therefore considers meetings with official Israeli and Palestinian interlocutors to be an important element of any country visit.

10. The Special Rapporteur will formally request the Governments of Israel and of the State of Palestine to facilitate a visit to Israel and the Occupied Palestinian Territory before the end of 2014 with a view to preparing his first substantive report, to be submitted to the Human Rights Council at its twenty-eighth session, in March 2015.

11. It is hoped that Israel will, in good faith, extend the same level of cooperation to the current Special Rapporteur as it did to the first and, more recently, to the Special Rapporteur on adequate housing in 2012 and to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in 2011, in the context of their respective visits to Israel and the Occupied Palestinian Territory (see A/HRC/22/46/Add.1, A/HRC/20/17/Add.2, E/CN.4/1994/14 and E/CN.4/1995/19). The Special Rapporteur counts on the facilitation of the Governments of Israel and the State of Palestine in this regard.

12. The Special Rapporteur also looks forward to receiving constructive responses from the Government of Israel to the conclusions and recommendations of his substantive reports to be submitted to the Human Rights Council and the General Assembly during the course of his term as mandate holder.

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[2] Israel deported the Special Rapporteur serving from 2008 to 2014 upon his arrival at Ben Gurion airport in December 2008, as he attempted to enter Israel on mission, and refused to engage in any contact with him thereafter (see A/HRC/25/67).

IV. Consultations in Geneva

13. From 23 to 27 June 2014, the Special Rapporteur undertook a mission to Geneva for consultations with the States concerned. The primary purpose of the visit was to establish contacts and to discuss the implementation of the mandate with the Permanent Representative of Israel and the Permanent Observer of the State of Palestine to the United Nations Office at Geneva.

14. The Special Rapporteur met the Permanent Observer of the State of Palestine and the Permanent Representative of Israel on 24 and 26 June respectively, and held open and frank discussions with both of them in a spirit of transparency and mutual trust. The meeting with the Permanent Representative of Israel was particularly noteworthy because the Government of Israel had previously ceased all contact with the Special Rapporteur's predecessor for six years. The Permanent Representative of Israel informed the Special Rapporteur of his country's reservations regarding both the one-sided wording and open-ended nature of the mandate, which according to Israel prescribed the violations to be investigated by the Special Rapporteur. The Permanent Observer of the State of Palestine expressed his full support for the Special Rapporteur in the fulfilment of his mandate.

15. The Special Rapporteur also met other relevant interlocutors, including the President of the Human Rights Council, the Deputy United Nations High Commissioner for Human Rights, other staff members of the Office of the United Nations High Commissioner for Human Rights and representatives of non-governmental organizations, in order to apprise himself of the situation in the Occupied Palestinian Territory and to seek advice in relation to the effective fulfilment of the mandate. He also attended a discussion held under item 7 of the agenda of the twenty-sixth session of the Human Rights Council, entitled "Human rights situation in Palestine and other occupied Arab territories", to observe the proceedings.

16. During the aforementioned meetings, the Special Rapporteur expressed a desire to engage in constructive dialogue and the intention to begin working through the established human rights mechanisms available to special procedures mandate holders, including by way of confidential communications, in order to raise awareness of issues of concern pertaining to the situation of human rights in the Occupied Palestinian Territory. The Special Rapporteur reiterated that his only interest was to offer an objective assessment of the situation of human rights in the Occupied Palestinian Territory and to make recommendations with a view to improving the situation of human rights for Palestinians presently living under continued Israeli military occupation. The Special Rapporteur noted that access to Israel and the Occupied Palestinian Territory was an important starting point and expressed a strong interest in undertaking a country visit at the earliest opportunity.

17. A number of interlocutors informed the Special Rapporteur, during his consultations in Geneva, that Israel had conveyed assurances of its cooperation and engagement, including in terms of granting access to the mandate holder for a country visit.

V. Implementation and next steps

18. The intention of the Special Rapporteur in the present report is to provide an overview of the mandate, to address the issue of cooperation and to report briefly on the consultations with relevant stakeholders held in Geneva in June 2014. More time is needed to reflect upon the issues at hand and to gather adequate and credible first-hand information by way of a country visit before embarking on a substantive report.

19. Nevertheless, the Special Rapporteur is gravely concerned at the unfolding tragedy in the Gaza Strip. Since Israel launched military operation "Protective edge" during the night of 7 July 2014, the reported number of Palestinian civilians, including children, killed in the Gaza Strip as a result of Israeli airstrikes, tank and naval shelling on homes, hospitals and schools, including those run by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and other civilian infrastructure has climbed rapidly with each passing day.[3] The death toll has risen further since the ground offensive, which began on 17 July.

20. The destruction of several thousands of homes has affected families throughout Gaza.[3] Hundreds of thousands of people have had to leave their homes to seek refuge in schools, government buildings, hospitals and the homes of relatives. The number of internally displaced persons hosted by UNRWA is reported to have already exceeded the equivalent figure during Israeli military operation "Cast lead" (27 December 2008-18 January 2009), which represented the deadliest escalation of violence recorded in Gaza since 1967. The gravity of the situation in the Gaza Strip is compounded by a shortage of fuel, electricity, water, medical supplies and other basic necessities for the civilian population.

21. The Special Rapporteur has received dozens of reports of alleged violations of international human rights law and international humanitarian law by Israel, based on the monitoring and documentation work of courageous human rights defenders in Gaza, who are working tirelessly and at great risk to their own safety to bring these terrible cases to the attention of the world.

22. In the light of the gravity of the situation, the Special Rapporteur undertook an exceptional mission to Geneva on 23 July to attend the twenty-first special session of the Human Rights Council on the human rights situation in the Occupied Palestinian Territory, including East Jerusalem. At the session he delivered a statement on behalf of the Coordination Committee of Special Procedures during which he urged that prompt, thorough, independent and effective investigations be conducted into all civilian deaths and injuries, as well as into the destruction of all civilian homes and vital infrastructure, caused by the Israeli military operation in Gaza, as well as by the rockets fired by Palestinian armed groups into Israel.

23. The Special Rapporteur has no illusions about the challenges ahead in the implementation of his mandate. Nevertheless, he will do his utmost to investigate and report on alleged Israeli violations impartially and objectively, with no

[3] Office for the Coordination of Humanitarian Assistance, situation report on the Occupied Palestinian Territory of 7 August 2014. Available from www.ochaopt.org/documents/ocha_opt_sitrep_07_08_2014_.pdf.

preconceptions, on the basis of facts set against established international human rights law and international humanitarian law.

24. In future reports, the Special Rapporteur will present conclusions and recommendations that may shed light on alleged human rights violations suffered by victims in the Occupied Palestinian Territory. He hopes that his future reports will contribute to bringing some form of accountability for such violations and, ultimately, to preventing their reoccurrence. He is firmly of the view that lasting peace can be built only on the foundations of human rights and human dignity.

25. The Special Rapporteur takes note of Human Rights Council resolution S-21/1, adopted on 23 July 2014, and looks forward to unhindered access to Israel and the Occupied Palestinian Territory and to full cooperation with the respective authorities in the context of the implementation of his mandate.